

## **Remarks**

Applicants respectfully request reconsideration of this application as amended.

Claims 1-3, 5-8, 10-12, 15-17, 19-23 and 25-28 have been amended. No claims have been cancelled. Therefore, claims 1-28 are presented for examination.

Claim 8 stands objected to because of an informality. Applicant submits that claim 8 has been amended to appear in proper condition for allowance.

Claims 6-14 and 20-24 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant submits that claims 6 and 20 have been amended to appear in proper condition for allowance.

Claims 1, 3-6, 8, 15, 17-20, and 22 stand rejected under 35 U.S.C. §102(e) as being anticipated by Swaminathan (U.S. Patent No. 6,381,658). Applicants submit that the present claims are patentable over Swaminathan.

Swaminathan discloses a memory controller that sends command packets across a memory channel to a RDRAMs for performing read and write transactions. The memory controller has a queue with a plurality of queue positions and includes packet scheduling logic to schedule times for the packets in the various positions of the queue. The memory controller schedules times for packets based upon timing constraints between different packets. The timing constraints require that certain packets be spaced apart from one another in the queue by a specified amount of time to insure the proper operation of the read and write transactions. In order to schedule a packet, the memory controller must position a packet on the first clock cycle of the slot's four memory channel clock cycles. Further it is disclosed that the next time a packet can be scheduled, immediately after a timing constraint, falls after the first clock cycle of the slot such that the packet must be positioned at the beginning of the next following slot wasting memory channel clock cycles. See Swaminathan at col. 1, ll. 52 – col. 2, ll. 3. Thus, Swaminathan discloses solving this problem by assigning times for each queue position of a queue. Some of the queue positions

have a packet scheduled at a scheduled time. Bubbles are added to the queue positions to adjust the scheduled time for the packet to precisely position the packet (col. 2, ll. 6-11).

Claim 1 of the present application recites a scheduler to launch a first packet from the first queue that straddles a first fixed packet slot and a second fixed packet slot. Applicant submits that nowhere in Swaminathan is there disclosed launching a packet that straddles a first fixed packet slot and a second fixed packet slot. Instead, Swaminathan discloses assigning times for each queue position of a queue. Thus, claim 1 is patentable over Swaminathan.

Claims 2-14 depend from claim 1 and include additional features. Therefore, claims 2-14 are also patentable over Swaminathan.

Claim 15 recites a scheduler to launch a first packet from a first queue that straddles a first fixed packet slot and a second fixed packet slot. Thus, for the reasons described above with respect to claim 1, claim 15 is also patentable over Swaminathan. Since claims 16-24 depend from claim 15 and include additional features, claims 16-24 are also patentable over Swaminathan.

Claim 25 recites transmitting a first packet to a memory, wherein the first packet is transmitted straddling a first fixed packet slot and a second fixed packet slot. Therefore, for the reasons described above with respect to claim 1, claim 25 is also patentable over Swaminathan. Since claims 26-28 depend from claim 25 and include additional features, claims 26-28 are also patentable over Swaminathan.

The Office Action further rejects claims 2 and 16 under 35 U.S.C. §103(a) as being unpatentable over Swaminathan. Applicant submits that Swaminathan may not be considered as prior art precluding patentability of the present invention. Section 103(c) of Title 35 of the United States Code was amended in November 1999 to include references which qualify as prior art under 35 U.S.C §102(e). Section 103(c) currently reads:

*Subject matter developed by another person,  
which qualifies as prior art only under one or*

*more of the subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.*

Swaminathan is considered prior art under 35 U.S.C. §102(e) as cited in the Office Action. See Office Action at paragraph 6. Additionally, at the time of conception of the claimed invention, Swaminathan, as well as the claimed invention was subject to an obligation of assignment to the Intel Corporation. Therefore, due to the §102(e) status of the Swaminathan, and in light of §103(c), Swaminathan cannot be used as a reference to preclude patentability of claims 2 and 16 under 35 U.S.C §103. Applicant respectfully requests the withdrawal of the rejection of the claims under 35 U.S.C. §103 in view of Swaminathan.

Claims 7, 9, 21, 23, 25-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Swaminathan (U.S. Patent No. 6,381,658) as applied to claims 1-6 above, and further in view of Barth et al. (U.S. Patent No. 6,154,821). As discussed above, Swaminathan cannot be considered as prior art precluding patentability. Accordingly, the combination of Swaminathan and Barth cannot be used to render obvious applicant's invention as claimed in claims 7, 9, 21, 23, and 25-27. Therefore, applicant respectfully requests the withdrawal of the rejection of these claims.

Claims 11-14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Swaminathan (U.S. Patent No. 6,381,658) as applied to claims 1-6 above, and further in view of Freker (U.S. Patent No. 6,564,335). As discussed above, Swaminathan cannot be considered as prior art precluding patentability.

In addition, Freker may not be considered as prior art precluding patentability of the present invention. Freker is also considered prior art under 35 U.S.C. §102(e) since Freker was filed before the present application (effective filing date: 4-31-00), but was issued after

the filing of the application. Additionally, at the time of conception of the claimed invention, Freker, as well as the claimed invention was subject to an obligation of assignment to the Intel Corporation. Therefore, due to the §102(e) status of the Swaminathan and Freker, and in light of §103(c), Swaminathan and Freker cannot be used as references to preclude patentability of claims 11-14 under 35 U.S.C §103. Applicants respectfully request the withdrawal of the rejection of the claims under 35 U.S.C. §103 in view of Swaminathan and Freker.

Applicant respectfully submits that the rejections have been, and that the claims are in condition for allowance. Accordingly, applicant respectfully requests the rejections be withdrawn and the claims be allowed.


The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: August 2, 2004

  
\_\_\_\_\_  
Mark L. Watson  
Reg. No. 46,322

12400 Wilshire Boulevard  
7<sup>th</sup> Floor  
Los Angeles, California 90025-1026  
(303) 740-1980